

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	2:11-cv-05918-JHN-PLA	Date	July 21, 2011
Title	Aurora Loan Servs. LLC v. Sayel Fakhoury et al		

Present: The Honorable	JACQUELINE H. NGUYEN
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Alicia Mamer	Not Reported	N/A
Deputy Clerk	Court Reporter / Recorder	Tape No.
Attorneys Present for Plaintiffs:	Attorneys Present for Defendants:	
Not present	Not present	

Proceedings: ORDER REMANDING CASE TO LOS ANGELES COUNTY SUPERIOR COURT (In Chambers)

On May 7, 2010, Plaintiff Aurora Loan Services, LLC filed an action against Defendant Sayel Fakhoury ("Defendant") for unlawful detainer in the Superior Court for the State of California, County of Los Angeles. On July 19, 2011, Defendant removed this action to federal court.

The Court has an independent duty to examine whether it has subject matter jurisdiction. "If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded." 28 U.S.C. § 1447(c). Here, it is clear that the Court does not have subject matter jurisdiction. *See O'Halloran v. Univ. of Wash.*, 856 F.2d 1375, 1379 (9th Cir. 1988) ("In determining the existence of removal jurisdiction based upon a federal question, the court must look to the complaint as of the time the removal petition was filed."). Based on the face of the Complaint, this case is not removable because Plaintiff does not affirmatively allege any federal claim; rather, the Complaint states a single state law unlawful detainer claim. *Ben. Nat'l Bank v. Anderson*, 539 U.S. 1, 6 (2003) ("As a general rule, absent diversity jurisdiction, a case will not be removable if the complaint does not affirmatively allege a federal claim.").

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Under 28 U.S.C. § 1332, the Court also has original jurisdiction over civil actions where there is complete diversity of citizenship and the amount in controversy exceeds \$75,000. *Morris v. Princess Cruises, Inc.*, 236 F.3d 1061, 1067 (9th Cir. 2001). Although Defendant's Notice of Removal claims that the Court may exercise diversity jurisdiction, Defendant has not alleged that the amount in controversy requirement was met. In fact, the face page of the Complaint specifically stated that the "AMOUNT DEMANDED DOES NOT EXCEED \$10,000." Defendant also has failed to allege any facts to show complete diversity of citizenship.

Accordingly, the Court hereby REMANDS this case to the Los Angeles Superior Court.

IT IS SO ORDERED.

_____: N/A

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